

**TUSA P.C.**

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January 6, 2011

**BY ECF FILING AND FIRST CLASS MAIL**

Honorable Arthur D. Spatt  
United States District Court  
For the Eastern District of New York  
P.O. Box 9014  
Central Islip, NY 11722-9014

Re: Gunther v. Capital One, N.A., Civil Action No. 09-2966-ADS-AKT

Dear Judge Spatt:

We are counsel for Plaintiff and certified Class Counsel. During yesterday's Order to Show Cause hearing, Your Honor directed the transcript of those proceedings to be sealed. Defendant's counsel has requested that we disclose to them only the portion of that transcript that contains the Court's direction for Defendant to pay the aggregate attorneys' fee awarded by this Court to Plaintiff's counsel directly to Scott + Scott LLP's IOLA account. The undersigned and Scott + Scott LLP have no objection to Defendant's counsel's request. However, given the Court's order to seal the transcript, we request the Court's permission to comply with Defendant's counsel's request.

Respectfully yours,

/s/

Joseph S. Tusa\*

cc: Counsel of Record (By ECF Filing)

\* also affiliated with Whalen & Tusa, P.C. whose shareholders voted to dissolve that firm on December 22, 2010.